

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Kashif Shaikh, an individual, Qurrat-ul-Ain Kashif,
an individual

Plaintiffs,

v.

Michael Chertoff, as Secretary of the Department
of Homeland Security; Emilio Gonzales, Director
of U.S. Citizenship and Immigration Services;
David Still, Field Director of the San Francisco
District of U.S. Citizenship and Immigration
Services Center; Robert S. Mueller, Director of
Federal Bureau of Investigation; Michael Mukasey,
Attorney General Department of Justice

Defendants.

Case Number C 08-00345 JF/HRL

ORDER¹ TO SHOW CAUSE

[re: docket no. 1]

On January 17, 2008, Plaintiffs Kashif Shaikh and Qurrat-ul-Ain Kashif ("Plaintiffs")
filed the instant "Complaint For Writ in the Nature of Mandamus & Declaratory Judgment."
Plaintiffs assert that Defendants have failed to process their I-485 Applications to Adjust Status
to Permanent Residence in a timely manner.

¹ This disposition is not designated for publication and may not be cited.

1 Plaintiffs allege the following facts: Plaintiffs reside in Santa Clara, California. On
2 August 16, 2006, Plaintiffs filed an employment-based I-485 Application to Adjust Status to
3 Permanent Residence and an I-485 for derivative adjustment (“applications”) with the United
4 States Citizenship and Immigration Services (“USCIS”). Plaintiffs have supplied the USCIS
5 with the documents necessary to establish their eligibility for Permanent Resident Status.
6 Plaintiffs have exhausted all administrative remedies. More than one year has passed since
7 Plaintiffs filed their applications and they have yet to be adjudicated. The delay in the processing
8 of the application has allegedly resulted in various hardships for Plaintiffs, including their
9 inability to travel, work without restriction, or accrue time to be eligible for naturalization as
10 citizens of the United States.

11 Plaintiffs assert that Defendants’ failure to adjudicate their applications is due to
12 Defendants’ unwillingness to complete in timely fashion a background check. Plaintiffs contend
13 that this delay violates 5 U.S.C. § 555 of the Administrative Procedures Act, which provides:
14 “With due regard for the convenience and necessity of the parties or their representatives and
15 *within a reasonable time*, each agency shall proceed to conclude a matter presented to it.”
16 (emphasis added). Plaintiffs request that the Court require Defendants to properly adjudicate and
17 approve their applications. Good cause therefore appearing, IT IS HEREBY ORDERED as
18 follows:

19 (1) The Clerk of the Court shall serve by certified mail a copy of the complaint and a
20 copy of this Order upon counsel for Defendants, the United States Attorney. The Clerk of
21 the Court shall also serve a copy of this Order upon Plaintiff.

22 (2) Defendants shall, within sixty (60) days after receiving service of the complaint,
23 file and serve upon Plaintiffs an answer, showing cause why the relief prayed for should
24 not be granted.

25 (3) Plaintiffs may file a response to the matters raised in the answer within twenty (20)
26 days after receiving the answer.

27 (4) Unless otherwise ordered by the Court, the matter will be deemed submitted upon
28 the filing of the response or upon the expiration of time to file a response.

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2 DATED: February 13, 2008
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JEREMY FOGEL
United States District Judge

1 This Order has been served upon the following persons:

2 Office of the United States Attorney
3 150 Almaden Blvd., Suite 900
4 San Jose, CA 95113

5 Todd Eric Gallinger
6 Gill & Gallinger LLP
7 Two Park Plaza, Suite 760
Irvine, CA 92614